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FOR SCA AND PA/PR/FPCW

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SUBJECT: TAJIKISTAN: RFE/RL WINS SOME, LOSES MORE

REF: DUSHANBE 1067 AND PREVIOUS

Classified By: Ambassador Tracey Jacobson, Reasons 1.4 (B) and (D)

¶1. (SBU) Summary. As if according to deadline, pending decisions regarding RFE/RL's re-accreditation, a series of lawsuits, and a tax audit were rendered by the end of August. On the positive side, the prosecutor threw out a legal complaint about the station's negative reporting and the Ministry of Foreign Affairs renewed the accreditation for the station and bureau chief. On the negative side, a judge ordered the station to re-hire a freelance reporter fired in 2007 and pay him three months salary and vacation pay. A tax inspector ordered the station to pay \$110,000 in back taxes. The regional director of the Tajik service plans to appeal the legal rulings and tax fine. Another former employee launched a lawsuit last week and is asking for \$145,000 for being underpaid during his 12 years of employment at the station. End summary.

¶2. (U) A "time of troubles" for Radio Free Europe/Radio Liberty (RFE/RL) in Tajikistan started in May when the Ministry of Foreign Affairs, the accrediting agency for foreign media, did not immediately renew the station's or bureau chief's accreditation upon expiration. In July two former employees, Sayofi Mizrob and Kholiq Sangin, held press conferences denouncing the station's critical reporting on the government and its unfair employment policies. Both filed legal actions. Also in July a tax inspector launched an audit of the station's finances. By the end of August, most pending decisions had been rendered, some in RFE/RL's favor, some not.

¶3. (U) On the positive side, on August 13 a local prosecutor issued a letter dismissing Mizrob's complaint about the station's reporting and refused to open a criminal case. The Ministry of Foreign Affairs renewed the accreditation for the station and bureau chief Mirzonabi Kholiqzoda.

¶4. (SBU) On the negative side, on August 27 a judge ordered RFE/RL to re-hire Sangin (who was fired for being absent without leave in October 2007) and pay him three months salary and vacation pay. In numerous conversations with emboff in September, Rod Shahidi, the director of RFE/RL's Tajik service, said that the judge told bureau chief Kholiqzoda "off the record" that because of the "sensitive" nature of the case, he had to decide in Sangin's favor, or face a barrage of media criticism. Shahidi said he will appeal, because he believes the judge was under the mistaken impression that Sangin had previously been a full time employee, not a freelance contractor.

¶5. (SBU) Shahidi told emboff that the judge ordered the station to re-hire Sangin under the same contract he had before, which Shahidi said is an "entrepreneur" or fee-for-services contract. Shahidi said the contract conforms with Tajikistan's civil code, but not labor code. According to the contract offered, Sangin would earn \$20/article, but would not have a workspace at the station. On September 29, Shahidi said Sangin had not signed the agreement or submitted a tax registration number as required by law.

¶6. (SBU) Sangin told emboff September 30 that he had not signed the contract, because he wanted a full time job with commensurate benefits. He admitted that he had been fired after failing to return from vacation when expected and without providing news of his whereabouts. He said he has not been able to work as a reporter for the last few months because he has been focused on dealing with the court case.

¶7. (U) In another setback, on August 29, a tax inspector delivered a report assessing RFE/RL \$110,000 in back taxes, which Shahidi said was the accumulation of the 25% tax that freelance employees were supposed to have paid but did not. Shahidi said the station would appeal the fine because the audit document contained irregularities, such as not including the names of the tax auditors or the signature of a tax committee supervisor.

¶8. (SBU) Regarding Mizrob's pending lawsuit (see reftel), Shahidi said RFE/RL received the court papers the week of September 23. He said Mizrob was asking for \$1,100 for unpaid reports, about \$9,800 interest, and \$100,000 for being pressured during his 12 years of employment at RFE/RL to write reports critical of the government and the president.

¶9. (SBU) Mizrob told emboff a different version about the lawsuit in a telephone conversation September 30. He called Shahidi an "Iranian dictator," and said he filed the suit in protest against Shahidi's management practices, not because of the station's editorial policies. He said he was asking for about \$145,000 for 12 years of being underpaid for his work. He expected the hearings to begin after the Eid holiday sometime in early October.

¶10. (U) The lawsuit filed by Masud Sobirov, leader of the government-recognized branch of the Democratic Party of Tajikistan, is still open. (Note: Sobirov filed a defamation suit against RFE/RL in July for reports that described the party as "split." Sobirov claims the characterization is false, because his branch is the only one recognized by the government.) Shahidi said that Sobirov told him he would not pursue the case.

¶11. (C) Comment. The issue at the heart of RFE/RL's ongoing troubles is its practice of freelance employment contracts, which provoked the ruling in Sangin's favor, a tax assessment to collect freelancers' unpaid taxes, and Mizrob's lawsuit. Shahidi insisted to emboff that all employees now have full time contracts, but his credibility is questionable, because he has misled the embassy in other conversations (see previous reftels).

¶12. (C) Comment continued. Sangin won the first round in his legal case and may win the appeal, if Shahidi continues to play a legal game of complying with the civil code, but not the labor code. If Sangin wins, the joke will be on RFE/RL. By many peer accounts, Sangin was an unreliable employee, and RFE/RL was right to fire him. Regarding Mizrob, until the embassy sees the actual legal papers, it is impossible to know whether Shahidi's version or Mizrob's version is correct. Shahidi's story is plausible, because Mizrob denounced the station's editorial policies at a press conference in July. However, given the favorable outcome of Sangin's case, Mizrob may have been motivated to leverage the same argument to get a lucrative settlement for himself. End comment.

JACOBSON